IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 27923 of 2005(Y)

PETITIONER:

KIZHAKKEVEETTIL LAKSHMI,
W/O.LATE KRISHNAN,
KARIVELLUR P.O., TALIPARAMBA TALUK,
KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN,
SRI.M.B.PRAJITH.

RESPONDENTS:
----

1. **UNION OF INDIA, REPRESENTED BY**
   UNDER SECRETARY TO GOVERNMENT OF INDIA,
   MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTERS
   DIVISION, NEW DELHI.

2. **STATE OF KERALA, REPRESENTED**
   BY ITS SECRETARY TO GOVERNMENT,
   DEPARTMENT OF GENERAL ADMINISTRATION,
   SECRETARIATE, THIRUVANANTHAPURAM.

BY ADV. SRI.P.K.BABU, ADDL.CGSC,
GOVT. PLEADER SRI. V.T.K. MOHANAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.27923/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 17/03/2004.

EXT.P.2: COPY OF THE ORDER DTD. 12/05/2003 ISSUED BY THE GOVERNMENT OF INDIA SANCTIONING FREEDOM FIGHTERS PENSION TO HE PETITIONER.

EXT.P.3: COPY OF THE REPRESENATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT DTD. 28/07/2003.

EXT.P.4: COPY OF THE ORDER DTD. 14/12/2004 PASSED IN FAVOUR OF SRI. THAIVALAPPIL KANNAN, ONE OF THE PARTICIPANTS IN THE KARIVELLUR MOVEMENT ALONG WITH THE PETITIONERS HUSBAND.

EXT.P.5: COPY OF THE ORDER DTD. 18/05/2005.

EXT.P.6: COPY OF THE ORDER DTD. 27/05/2004 ISSUED BY THE UNION OF INDIA.

EXT.P.7: THE ORIGINAL OF THE POSTAL ACKNOWLEDGMENT CARD WHICH WOULD SHOW THAT THE R.1. HAS RECEIVED THE APPLICATION ON 11TH APRIL 1998.

EXT.P.8: THE ORIGINAL OF THE ACKNOWLEDGEMENT CARD RECEIVED FROM THE STATE GOVERNMENT.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

T.R.RAMACHANDRAN NAIR, J.

= = = = = = = = = = = = = = = = =

WP(C).No. 27923 of 2005-Y.

= = = = = = = = = = = = = = = = =

Dated this the 20th day of August, 2007.

J U D G M E N T

The substantial prayer in the writ petition is for a direction to the 1st respondent to grant freedom fighters pension to the petitioner with effect from 20.1.1998 by modifying Ext.P2. The short facts are; the petitioner is the widow of deceased freedom fighter Sri.K.Krishnan Master. He was a prominent freedom fighter and was a recipient of State Pension as per Ext.P1. The order sanctioning SSS pension is Ext.P2 but only from 18.11.2002. Thereafter the petitioner submitted Ext.P3 representation requesting to modify the order by claiming arrears from 20.1.1998. That is the date from which Karivellur struggle was accepted as part of freedom movement. Petitioner's late husband had sufferings in connection with it. The petitioner has produced Ext.P4 which is an order modifying the grant of pension in respect of another freedom fighter by which the Central Government has granted arrears from 20.1.1998 instead of 9.11.2001. But in Ext.P5 the request of the petitioner was found not acceptable in the light of the fact that the application dated 3.4.1998 of the petitioner was forwarded by the State of

Kerala only as per letter dated 12.11.2002 and the same was received in the Ministry on 18.11.2002. Ext.P6 is an order issued in respect of the widow of another freedom fighter to be effective from 20.1.1998.

2. The question is whether the view taken on Ext.P5 is correct. The matter is covered by a Division Bench decision of this Court in *Union of India v. Radhamony* (2005(4) KLT 27). After considering the scheme it was held that, 'the pension should be given to the applicant from the date on which the original application is received irrespective of whether the application is filed with or without requisite evidence. The relevant date is the date on which the application was received by the authorities.' Therefore the view taken in Ext.P5 that the crucial date is the date of receipt of recommendation by the State Government is not correct. Further as per Exts.P4 and P6 others were granted benefit from 20.1.1998 itself. The petitioner has produced along with the reply-affidavit Ext.P7 the original of the acknowledgment card showing the date of receipt of application as 11.4.1998 in the Ministry of Home Affairs Freedom Fighters Division.

3. Accordingly, Ext.P5 is quashed. Therefore, the petitioner will be eligible for grant of pension from that date. It is declared so. Consequential orders sanctioning arrears shall be passed by the first respondent within a

period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-